

Introduced by Senator Florez

February 17, 2005

An act to amend Section 22203 of the Financial Code, relating to loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 360, as introduced, Florez. Consumer loans: property sales and leasebacks.

The California Finance Lenders Law provides for the regulation of finance lenders by the Commissioner of Corporations and makes a violation of its provisions a crime. The law defines the term "consumer loan" to mean a loan, whether secured by either real or personal property, or both, or unsecured, the proceeds of which are intended by the borrower for use primarily for personal, family, or household purposes.

This bill would expand the definition of the term "consumer loan" to also mean the sale of any real or personal property, the proceeds of which are intended by the seller for use primarily for personal, family, or household purposes, that includes the simultaneous leaseback to the seller of the same property.

Because a violation of the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22203 of the Financial Code is amended
2 to read:

3 22203. (a) “Consumer loan” means a loan, whether secured
4 by either real or personal property, or both, or unsecured, the
5 proceeds of which are intended by the borrower for use primarily
6 for personal, family, or household purposes. ~~For~~

7 (b) *For the purposes of this division, “consumer loan” shall*
8 *also mean the sale of any real or personal property, the proceeds*
9 *of which are intended by the seller for use primarily for personal,*
10 *family, or household purposes, that includes the simultaneous*
11 *leaseback to the seller of the same property.*

12 (c) For purposes of determining whether a loan is a consumer
13 loan, the lender may rely on any written statement of intended
14 purposes signed by the borrower. The statement may be a
15 separate statement signed by the borrower, or may be contained
16 in a loan application or other document signed by the borrower.
17 The lender shall not be required to ascertain that the proceeds of
18 the loan are used in accordance with the statement of intended
19 purposes. Nothing in this section shall authorize the taking of real
20 property as security, except as specified in Section 22330.

21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the
26 penalty for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition of a
28 crime within the meaning of Section 6 of Article XIII B of the
29 California Constitution.